EXHIBIT 6

In the Matter Of:

K.C., ET AL

-v-

INDIVIDUAL MEMBERS OF MEDICAL LICENSING BOARD OF INDIANA, ET AL

Elaine Cox, M.D.

May 31, 2023

30(b)(6)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

K.C., et al.,)
)
Plaintiffs,)
)
-v-) CASE NO.
) 1:23-cv-00595-JPH-KMB
THE INDIVIDUAL MEMBERS OF)
THE MEDICAL LICENSING BOARD)
OF INDIANA, in their official)
capacities, et al.,)
)
Defendants.)

The 30(b)(6) deposition upon oral examination of RILEY CHILDREN'S HEALTH by ELAINE COX, M.D., a witness produced and remotely sworn before me, Debbi S. Austin, RMR, CRR, Notary Public in and for the County of Hendricks, State of Indiana, taken on behalf of the Defendants via Zoom videoconference on May 31, 2023, at 9:01 a.m., pursuant to the Federal Rules of Civil Procedure.

STEWART RICHARDSON & ASSOCIATES
Registered Professional Reporters
(800)869-0873

APPEARANCES
(All participants via Zoom videoconference)

FOR THE PLAINTIFFS:
Kenneth J. Falk, Esq.
Gavin M. Rose, Esq.
Stevie Pactor, Esq.
ACLU OF INDIANA
1031 East Washington Street
Indianapolis, IN 46202
kfalk@aclu-in.org
grose@aclu-in.org
spactor@aclu-in.org
Chase Strangio, Esq.
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street
New York, NY 10041
cstrangio@aclu.org

FOR THE DEFENDANTS:
Thomas M. Fisher, Esq.
OFFICE OF THE ATTORNEY GENERAL
302 West Washington Street
IGCS Fifth Floor
Indianapolis, IN 46204
tom.fisher@atg.in.gov

FOR THE DEPONENT AND INDIANA UNIVERSITY HEALTH:
Joshua J. Minkler, Esq.
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, IN 46204
josh.minkler@btlaw.com

APPEARANCES (CONT'D.)

ALSO PRESENT: Alli Emhardt, Assistant General Counsel
Indiana University Health

Joannie Geuder
Mylene Laughlin
Andrew Shaw
Brandon Splitter
Bailey Steinhauer
Shay Storz
John Vastag
Roarke Matchett

INDEX OF EXAMINATION

INDEX OF EXHIBITS

INDEX OF EXHIBITS (CONT'D.)

ELAINE COX, M.D.,

having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. FISHER:

Q Good morning, Dr. Cox. My name is Tom Fisher. I'm with the Attorney General's Office, and I'll be taking your deposition today.

So we only have a short amount of time. I promised your lawyer I would get through this as quickly as I can. And I know that, you know, no one's really eager to be doing this at 9:00 in the morning, but I really appreciate your help and your cooperation. So I think we're going to start off by identifying a few documents, just because there was a production of documents and I want to make sure I know what it is that's been produced.

But first, let's start with Exhibit 1, which is going to be – it's a document titled "Subpoena to Testify at a Deposition in a Civil Action."

MR. FISHER: Joannie, do you have that one?

(Deposition Exhibit 1 marked.)

Q Doctor, I'm not going to ask detailed questions about this document. I just want to know whether

you have seen it.

A Yes. Mr. Minkler shared it with me.

Q Okay. And do you understand this to be the subpoena to IU Health to give a deposition in this case?

A Yes.

Q And I'm going to ask you, just for the sake of the court reporter, to make sure you give all your answers verbally, and head nods and shakes won't get recorded well. So let's – it's something we all have to be mindful of.

A Okay.

Q By this case, of course, I mean from the caption, K.C., et al., versus Individual Members of the Medical Licensing Board of Indiana.

Do you see that?

A I do.

MR. FISHER: All right. Let's mark Exhibit 2, which is the attachment to the subpoena. It should be probably a separate document.

(Deposition Exhibit 2 marked.)

Q All right. Again, I'm not going to ask a whole lot of questions about this, but I wonder if you've seen this document before.

A It was shared.

Q Have you – well, I'll just describe what it is, and you can kind of hopefully confirm that you have the same understanding. So this is a document that describes the categories of testimony that we have asked IU Health to provide.

Does that comport with your understanding of the document?

A Yes.

Q And have you read this document?

A Not in detail, just skimmed it.

Q Well, I guess my main question is, are you prepared to give testimony on each of these subjects today?

A Yes.

MR. FISHER: All right. Let's mark Exhibit 3, which is the complaint in this case.

(Deposition Exhibit 3 marked.)

Q Doctor, this is the complaint filed to initiate this case, and I'm wondering if you have seen this document before.

A I have.

Q Have you read the entire document?

A Yes.

Q Wow, that's heroic.

A It was a long weekend.

Q So you understand, I guess, that this lawsuit is

Page 9

about a challenge to the new Indiana law, Senate Enrolled Act 480 that bans gender transition procedures for minors?
A Yes, I am aware.
MR. FISHER: Okay. Let's go ahead and mark Exhibit 4, which is the curriculum vitae for Dr. Cox.
(Deposition Exh bit 4 marked.)
Q Dr. Cox, do you recognize this document?
A I do.
Q And what is it?
A It is my curriculum vitae.
Q Is it current as of today?
A It is current as of when I submitted it, and I don't think anything has changed in this week, so I would say yes.
Q Okay, great. So I understand that you are the designee of IU Health to testify for its -- as an institution today.
Is that your understanding?
A It is.
Q Okay. And I'm wondering, just -- not to suggest anything otherwise, but I'm wondering what on this CV tells us that you are an appropriate person to testify for IU Health today.

Page 10

A So I am the chief physician executive for Riley Children's Health, which means all practice, quality measures, protocols, et cetera, are overseen because the work of the physicians and the advanced practice providers is overseen by my office.
Q I'm sorry, the last word, overseen by what?
A My office.
Q Your office, okay.
Is there another administrative official that you report to or are you the chief administrative officer as well?
A So I report to the president of Riley Children's Health.
Q And is that person a physician?
A It is not. So I would be the highest ranking physician for Riley Children's Health.
MR. FISHER: Now, let's mark Exh bit 5. And this is going to have a Bates number ending in 3890.
(Deposition Exh bit 5 marked.)
Q Dr. Cox, do you recognize this document?
A I have seen it before, yes.
Q Can you descr be what it is, please.
A So this is a document that we use because a lot of

Page 11

our patients who have gender dysphoria are curious about future fertility and have a lot of questions. And so over time, and knowing the questions, knowing the things that have come up with others, this document is used to guide, to help the patients with their discussion about this particular item with fertility in the future.
Q So this is a document designed for patients?
A For patients, and in the case of minor children, their parents who are their proxy decision-makers.
Q Is this document given to every patient or parent of a patient who is seeking some sort of medical intervention for gender dysphoria?
A That is my understanding.
Q So you don't wait for a request for information, you just provide it as part of the process?
A That is my understanding, but I have not witnessed that directly in the clinic.
Q So yeah, and I guess that raises the question, do you yourself ever treat patients with gender dysphoria?
A I do not.
Q And what is your area of medical expertise?
A So when I was practicing all the time, it's pediatric infectious disease and public health.

Page 12

But then I spent five years as the chief medical officer. I've been the patient safety officer. And I ke I said, I'm the chief physician executive that oversees practice in our hospital. And so my understanding of this document is that it is provided to each family that comes through the clinic, but I personally don't hand out the document.
Q Understood. Do you maintain a clinical practice?
A I do not currently.
Q Do you have an area of academic research that you specialized in?
A So most of my research has been on infections and infection prevention, antimicrobial stewardship, in the area of HIV/AIDS.
Q So with respect to this document that's on the screen, I guess I'm wondering, you say you understand that it's given to every patient, but is there a policy about that, about giving it to every gender dysphoria patient?
A It's not policy, but there is a difference between policy and standard of practice. So standards of practice are widely accepted across the entire nation about the care that you give under any auspices.

Page 13

So there are guidelines from the Endocrine Society. There are guidelines from the Society of Adolescent Medicine. There are the WPATH guidelines, of what the best care, the best practice, if you will, should be. Everything's not written into policy, but it is accepted standard of practice.

Q Why is it accepted standard of practice to provide this document to all patients seeking treatment for gender dysphoria?

A Well, I think, you know, with any sort of document such as this, knowing that these are questions that some people have considered or have come up, you want to make sure that everyone is fully informed and has all the – the knowledge that you can share with them about things that they should be considering in any diagnosis and any kind of treatment.

So an example is that we also ta k about fertility preservation when we're getting ready to give chemotherapy, certain types of chemotherapy. So these are things that we as physicians know that people should be informed of and aware of, and we want to make sure that they have information at their fingertips.

Page 14

Q Do you yourself have any knowledge of the science behind the need to give this as a – this document as a standard of practice?

A I do not. Most best practice is determined by people in every single specialty who, one, have a great deal of experience; two, have national committees that get together that share and give information based on their experience and then come out with recommendations of what best practice should be. That's a standard in medicine. It's all across the board.

In this particular case, I'm sure that this is a document that our team has made for Riley that is based on the national recommendations for care of, in this case, our transgender and gender nonbinary people.

MR. FISHER: All right. Let's go ahead and mark Exh bit 6. This is going to be the document that ends Bates No. 3893. And it goes through – well, there's several pages to it. So let's mark 3893 through 3899. I'm uncertain exactly if this is all one document or if it's multiple, but we'll go through it page by page very briefly.

(Deposition Exh bit 6 marked.)

Q Well, let's just start with page 1, and we'll just take them one at a time here. So it looks l ke we've got some rotating to do as we go.

Page 15

Doctor, do you recognize this document?

A I don't think that I have seen this document.

Q Do you have any understanding of what it is or how Riley uses it?

A I do.

Q Okay. What can you tell us about that?

A So with anything, we make sure that we communicate all information orally and in written format, right, in any diagnosis that we have, because people – you know, they need to hear it so that they can ask questions and we can explain, but then they need something that they can refer back to because medicine is complicated. And as they think through things, they may need to go back and reiterate something.

And so it's very common for all of our educational materials to have what we would call, you know, FAQs or commonly asked questions, the major ones that we get, with answers that we give them so that, A, they can understand. And we do this with our educators, so that we're not writing in medical terms only so that our families and our patients have that opportunity.

Page 16

And there are very frequently illustrations with it because some people are more visual learners, and other people are more word learners, right, so we try to combine both. And that's what this document is for, so that people understand, whenever they make a decision to pursue therapy of any kind, what those medications are, what the effects of that medication is going to be, both the intended effects and some potential side effects, and then the drawings to help them understand.

Q So do you understand this document to be created for patients with gender dysphoria who are being prescr bed testosterone or is it more generally useful for other – any patient getting testosterone for any reason?

A It could be used for anybody getting testosterone for any reason. This is very general. You'll see it ta ks about testosterone therapy. It doesn't ta k about necessarily which thing you're giving it for.

Q And is this provided in a packet of information to the plaintiffs – or not plaintiffs, I'm sorry, the patients?

A I'm sure that it is. Probably only the pages of it that are useful for them. So if you're getting

Page 17

testosterone therapy, you would get this page. If you're getting a different therapy, you might not get this page.

Q Okay. Let's go to the next page, please. So it looks like we're on to a slightly different subject with this page. Doctor, this document reads "Oral Contraception Consent," and I'm just curious what this document is used for.

A Again, it's used for making sure that we have educated the patient that they have everything orally communicated and now in writing and that they understand everything that – about this oral contraception that they're going to take.

So there are multiple kinds of oral contraception. We give people options. When they decide and they pick one, such in this case oral contraception, we want to make sure that they've been fully informed of everything that it does and does not do. And part of that is having the conversation, but then having them look at each one of these and attesting that they understand.

Q Is this document relevant, to your understanding, in the treatment of gender dysphoria?

A It can be if someone is trying to manage their menses. So remember, there are a lot of reasons

Page 18

for oral contraception, and so when we have patients who have real challenges with their menses, excessive bleeding, excessive pain, in any of those cases, oral contraception might be used to help manage that, whether or not they're transgender. And so there are multiple reasons to use it, even, you know, in all patients.

Q Okay. Let's go to the next page, 3895.

So this document says "Depo-Provera Consent." So I'm wondering what this document is.

A So it's essentially the same thing about a different type of medication. But it's pretty much the same thing in theory that you have discussed different things. And Depo-Provera has been an option for therapy and you've communicated it and now here it is in writing. Depo-Provera will inh bit menses or at least shorten it and change it. So it's another option for patients who have challenges for – with regard to managing their menses.

Q Is it also a contraceptive or is it sort of just a menses management drug without relevance to contraception?

A Both.

Q Both, you say?

Page 19

A Yes.

Q Okay, thank you.

All right, let's go ahead and go to the next page. This says "Consent for Intrauterine Device Placement." So I take it this is the consent form if somebody wants an intrauterine device; correct?

A Correct.

Q And do you have an understanding of how that's relevant to treatment of gender dysphoria?

A So I think what you've seen, right, are the three options now for birth control and menses management. So it's oral contraception, Depo-Provera, and IUD. So they can be used in patients who are desiring of either contraception or menses management, and they are the three options and they can choose.

Q Is the IUD useful for menses management or is it just contraception?

A It's mostly contraception. And if there are further uses for it, I am not the person to comment on that.

Q Thank you. Let's go to the next page, 3897. So another patient consent form. What is this one used for?

A So Nexplanon is also a kind of birth control

Page 20

method, and it is – it's an estrogen-based product and it's inserted under the skin. So you don't take a pill every day. It's like an IUD in that way in that you don't have to remember to do something every day. It's an implantable.

Q Is it useful only for birth control or also menses management?

A It can be used in both because you're regulating someone's cycle, so it too can have benefits in both.

Q All right. Let's go to the next page, 3898. So this document at the top says "Consent for Procedure." I don't know if this is related to the Nexplanon or if it's an independent document, but I'm wondering if you can tell me how this document is used.

A So this is the general consent for a procedure. So this is not our operating room consent, but a consent for procedure. This is most often used in office procedures. And so you can see you fill in what the procedure is listed, and then exceptions to consent can be listed. So this – where it sits in this document, it's probably with regard to the insertion of a Nexplanon device. But this is a general consent for procedure, and you have to fill

Page 21

it in.
Q Okay, thanks. All right, let's go to the next page, 3899. So here we have another consent form, and this one is for Ortho Evra. And I'm wondering, it says, "Ortho Evra contraceptive patch." So can you – tell me, is that meant for menses management only or also birth control or only birth control? How does that fit into the range of options?
A It too can be both. So these patches have estrogen that regulates the menses cycle, as well as provides birth control. Another version.
MR. FISHER: All right. Let's mark Exhibit 7. And this has Bates No. 3901.
(Deposition Exhibit 7 marked.)
Q Doctor, do you recognize this document?
A I do. I have seen it.
Q And I think it looks to me like it's got one, two, three, four pages to it. I just want to – if we could just scroll slowly through so the doctor can make sure that we see the whole thing.
A Yes.
Q Okay. Doctor, what is this document used for?
A So this is a piece of information that is used for education, both within the gender affirmation clinic, but it is also useful for people who have

Page 22

questions about gender-affirming care and understanding where the supports and the guidelines come from, showing the studies and the medicine behind the treatment of gender-affirming care.
Q Who's the target audience principally?
A Well, I think it's written to be for both our learners and as well as families who have questions about, how did we come to this, where are the standards of practice. So it can be used in both.
Q And you used the term "learners," and I'm wondering what you mean by that.
A Medical students, residents, Fellows, physician assistant students, even social work students that we have in our educational institution.
Q Were you involved in the writing or preparation of this document?
A No.
Q Do you know anything about the science that is mentioned in this document?
A I do. I have reviewed multiple of the studies as well as some of the guidelines. I also am very well aware of the statement of support from the American Academy of Pediatrics and the Federation of Pediatric Organizations.
Q Do you know how the – do you know who the authors

Page 23

of this document are?
A I do not.
Q Do you have any understanding of how they decided what studies to mention in this document?
A I do not.
Q Have you ever discussed with the authors of this document whether there might be additional studies that could be or should be included?
A I have not. I have spoken with the chief of adolescent medicine. These are what we would consider to be the major studies and the most reliable bodies that we generally base our standards of care around, and I feel comfortable with that statement from her.
Q Oh, okay. Are you – have you done any research of your own to determine whether there might be additional studies that ought to be considered for this document?
A I have not looked specifically to say if there are other studies.
MR. FISHER: All right. Let's mark – I guess we're up to – I think we had two copies, Joannie, so I think we're going to skip over what is probably next. It's the same document. We don't need to mark it again. I want to go to what is

Page 24

3905, and so I guess this would be 8.
(Deposition Exhibit 8 marked.)
Q Doctor, do you recognize this document?
A I do.
Q And what is this document?
A This is the document that was prepared, the information that was prepared for our website and making clear what services that we will provide. So this was the document put together by the team for that purpose.
Q So this is taken from the website itself?
A This information is on the website. It's arranged differently, I think, on the website, but this is essentially what's there.
Q So is this document in this form used for anything or is it just a source of information for the website?
A I think it's used for the – again, for any audience that has questions about it. So it can be used for our patients and families or it can be used for our learners. It can be used, like I said, to inform for the searches that people are doing nationally, et cetera.
Q Let's scroll to the bottom of the page. There's a little – there's a box towards the bottom. So

Page 25

this says "Gender Care Interventions for Pediatric Patients (less than 18 years or old) & Riley Hospital for Children."

So are you with me down there at the bottom of the page?

A Yes.

Q Great. So it looks like in one column it has "Services Provided at Riley," and the other column it says, "Services Not Provided at Riley." And so you've got under services provided, ambiguous genitalia surgery, treatment for menstrual suppression, gender-affirming hormone therapy, surgery consultation and coordination. And under not provided at Riley, top surgery and bottom surgery.

And so let's start with ambiguous genitalia surgery. Do you know what that refers to?

A I do.

Q What is that referring to?

A So there are babies who are born with something called congenital adrenal hyperplasia, where their genitalia, despite the fact that they are hormone XX, their genitalia often are ambiguous, meaning they have some features of it that are vaginal and some that look penile.

Page 26

And for those families, for those little babies, because they have an intact uterus and all – they are genetically female, if the families desire that they want that genitalia in their infant to be restored to its genetic base and match its genetic base, that can be done here. There's an entire process that we go through with families around that.

And then that if families want to do that, then they can have that surgery done here. Families have a lot of reasons for wanting to do that early in life from the standpoint of their child and child care and other things that are not relevant here, but we will do that here, only for that particular case of patients.

Q Is it always for genetic females that this arises, or is it sometimes genetic males?

A No, it's genetic females, where this surgery, ambiguous genitalia surgery, is done here at Riley. There are other genital surgeries done on males, because they have, you know, some sort of a curvature or whatever, sometimes there are other surgeries that are done, but those are – those are corrective for a malformation as opposed to for any other reason.

Page 27

Q The ambiguous genitalia surgery, is it always done shortly after birth or what is the time frame where that's usually done in the child's life, I guess is what I'm wondering?

A Yeah, it's done in infancy.

Q So over on the right side of that, we've got the services not provided at Riley. And it says top surgery and bottom surgery.

So first of all, what is top surgery?

A So top surgery includes breast surgery. So whether it's augmentation, it's, you know, debunking of the breast, mastectomy. Those would be considered top surgeries.

Q And what is bottom surgery?

A Bottom surgery would be surgery on the genitalia. In the case of gender dysphoria, it would be, you know, phalloplasties and other things like that. So genital surgery.

Q Do you have a detailed understanding of what those surgeries involve?

A I do not, because we don't do them on minors here, and so we don't do them. I know what they are, and I certainly know like, you know, vaginoplasty and a vulvoplasty and a phalloplasty, those are the – plasty always means creation, right, and so those

Page 28

are the creations of the genital surgeries. But what the surgical procedures and the steps in that are, I do not know.

Q So I'm wondering why Riley does not provide top surgery and bottom surgery for minors.

A So I – so to be clear, we don't do top surgery or bottom surgery in minors for the sole purpose of gender dysphoria. There are times that children have excruciating back pain from exceedingly large breasts, they could have abscesses or other things. You know, there are vulvar abscesses and vaginal abscesses and penile abscesses, we would treat those.

We don't do top and bottom surgery in minors if there is no other indication than gender dysphoria. And the reason that we have made that our standard is that these surgeries are – you know, they're not small surgeries, and they are not easily reversible. And so you want people to be at the age of consent, which in this country is 18, before they make those decisions.

Medicines that you give, you can stop medicine, and the effects will lessen over time. But with surgery, that's – that is a commitment from which you don't come back. And so informed

Page 29

consent and making sure that patients are of an age where they will be able to truly be informed is 18, and so that is the standard we have chosen.

Q Do you have a detailed knowledge of the risks of hormone therapy on minors for gender dysphoria?

A So I think if you went back to those original documents, most of them are listed there. Most of the – those effects are shorter lived and mostly revers ble. You may put on some weight or you may develop some acne. Your menses will stop. It can be – it will resume once you come off the medicines. Those are the most common and very well known and very laid out in those documents.

To my knowledge, we don't know of any long-term, can't be reversed effects of those medicines after years of study of hormone therapy, not only in transgender, but in all kinds of indications.

Q What about infertility?

A So there is some concern, obviously, I don't know the studies so I can't give you percentages, but that is why we have that first document about fertility preservation, if there's any consideration of that.

Q So, and I'm wondering, you know, infertility sounds

Page 30

lke something that you don't undo; right?

A Infertility is something that is generally very – it depends on the reason that you have infertility if it can be overcome or not, whether you took meds or not, right. Infertility is a reality. But if there's a potential at all, we want to protect that, and I don't think you can ever know who's going to suffer from infertility for whatever reason. And so that's why we offer that. But it's a poss bility, I guess.

Q And Riley has decided that, notwithstanding that risk, it wants to offer hormonal treatment even though there is that potential risk in some cases?

A So what I would say to you is that if something is available, scientifically sound and recommended, and legal, Riley feels an obligation to the patients who are seeking help for any diagnosis to provide what is considered the standard of care. And we would commit that the standard of care in caring for people with gender dysphoria has been well laid out in the guidelines and that these are accepted manners of care.

Q And that's not true for top surgery or bottom surgery?

A So top surgery and bottom surgery, again, are much

Page 31

more permanent, and we want to make sure that our patients are of the age of consent for non-immediate necessity of surgery.

Q You had mentioned with respect to the hormones that you were committed to, I don't want to put words in your mouth, I want to make sure I'm getting kind of what you said here, but I think you said committed to providing recommended and legal treatments. But I am wondering, you know, does top surgery and bottom surgery at least fit those parameters, aside from the current law that we're ta king about?

A So I do think so. I think if you – because I have looked many places across the country for the surgical, the sort of accepted standard is that children are of the age of consent for surgical intervention. That is the common practice around the country.

I'm not saying that's what everybody does, but many, many places, that is the accepted standard. Some places have a little bit lower age limit for top surgery because the guidelines are – they're meant to be guidelines, so they're not a hundred percent prescriptive. But we have made the decision for surgical intervention that we are going to use 18.

Page 32

MR. FISHER: All right. Let's mark, I guess, Exhibit 9. So this is the one that's 3908.

(Deposition Exh bit 9 marked.)

Q Do you recognize this document? And there's two pages, I think, here.

A I have seen this document through the clinic.

Q What do you understand this document to be?

A So this document is basically looking at places where families can go and get information, support groups, different types of information that they can share with their families, their extended families, et cetera, who are interested in understanding their child's journey.

MR. FISHER: Let's go ahead and mark Exh bit 10. This is 3923.

(Deposition Exh bit 10 marked.)

Q It looks lke it's several pages, through 3933.

Doctor, as she's scrolling there, do you recognize this document?

A Well, I'm aware of the document. I haven't spent a lot of time in this document. This is an educational document that is put together by Seattle Children's that is, again, another opportunity for people to go and get more information about the treatments.

Page 33

Q Is it part of the standard of care at Riley to provide this document to patients seeking care for gender dysphoria?
A We offer them a lot of opportunities to go and look at different hospitals. You saw on the last document, there's a link there. And if somebody's done a really great job at putting together information that we think will be helpful, we want them to have access to all information. Hospitals and healthcare, as you know, in general like to share what they know, in particular children's hospitals. And so it's not unusual for us to offer them different things that are already in existence.
Q Do you know whether this is -- this document is given to every patient at Riley seeking feminizing hormones for gender dysphoria?
A I do not. I know it's given in the packet of, if you want more information, you can seek it. But whether it's printed out and given to the patients, I don't know.
MR. FISHER: Let's mark 11. It is 3934.
(Deposition Exhibit 11 marked.)
Q Very similar document. This one says, "A Guide to Masculinizing Hormones," also from Seattle

Page 34

Children's.
Again, do you recognize this document?
A I am aware of its existence, yes.
Q Is it fair to say this is used in much the same way as the previous document?
A It is.
MR. FISHER: Let's mark 12, which is 3943.
(Deposition Exhibit 12 marked.)
Q Doctor, do you recognize this document?
A Again, it's -- I am familiar with it. It is from Seattle, and it is around another intervention, this one for menstrual suppression.
Q And you -- I guess just to make sure I'm following, is it your understanding that this is made available, but you're not sure whether it's provided to every patient seeking menstrual suppression?
A That is correct.
MR. FISHER: Let's go to 13. So this is 3947.
(Deposition Exhibit 13 marked.)
Q Doctor, this looks like -- looks to be another information sheet from Seattle Children's, but it's for puberty blockers. And I'm wondering, do you know if this is given to every patient seeking medical intervention for gender dysphoria?

Page 35

A Again, I think they're given the option to access it, but whether it's printed out and handed to them, I do not know.
MR. FISHER: All right. Let's go to 14. 3953.
(Deposition Exhibit 14 marked.)
MR. FISHER: Can we make that a little bit bigger so the doctor can read it, please.
THE WITNESS: Thank you.
Q Can you read that okay?
A I can, thank you.
Q So this was produced to us, and I'm not sure if your e-mail address shows up on here or not. I don't see it. But I'm wondering if you have seen this document before.
A I have.
Q Can you tell me what it is?
A So this is a note from our senior vice president for governmental affairs, Tory Castor, to several of our legislators here in Indiana who had questions on Riley's gender care program and had talked with Tory Castor as well as some of our physicians getting their questions answered, and this was a follow-up e-mail.
Q Is Tory Castor a doctor?

Page 36

A She is not. She's a lawyer.
Q Oh, okay. So did -- do you know who wrote this? Do you know if Ms. Castor wrote this or if somebody else helped her write it?
A I do not know that.
Q Do you know if this document was vetted through any sort of senior medical staff at Riley?
A So I know that Tory Castor reached out to the physicians that provide care in the gender affirmation clinic to get accurate answers about the questionnaires, how they're used, who gets them. So she did talk to those physicians.
Q Were you aware that Ms. Castor was providing this document before it was sent?
A No.
Q And you never had a chance to review its contents?
A No, not this document, but I sat in on some of the conversations that were going on with the senators at the time, and this was just a follow-up clarification, is my understanding.
Q Oh, okay.
MR. FISHER: Let's mark 15, which is gender timeline, 3990.
(Deposition Exhibit 15 marked.)
Q Do you recognize this document, Doctor?

Page 37

A I have seen it.
Q I'm sorry, have or have not?
A I have.
Q You have, okay.
What do you understand this document to be?
A This is a document that helps families and patients understand what they can expect from the medications. So not every medication acts immediately, and sometimes the full effects are not seen for quite some period of time. And patients – they don't always understand that. And so this document is to help them manage their expectations of what's going to happen and when that's going to happen and prepare for it.
Q And did you help prepare this document?
A No, I did not.
Q It looks like the next page, it may be in the same document, but the 3991, or maybe it's actually a separate – there we go. I'm not sure if this is meant to be separate or meant to be part of the same thing, but do you recognize this part of the document?
A Yes.
Q And so it's telling us more, I think, similar types of information about estrogen and what it does.

Page 38

But do you understand it to be part of the previous page or do you think this is actually a separate document?
A So I suspect it's a separate document, and they're given together as a packet if they're appropriate. So you wouldn't give somebody that's going to start testosterone therapy information about estrogen. So it would be handed separately to a patient for where it's appropriate.
Q And if we flip to 3996, it should be probably in that same exhibit. There we go. So I take it that this is then the appropriate version of the information that we're talking about, but for somebody who's going to be taking testosterone rather than estrogen?
A Yes.
MR. FISHER: All right. Let's mark 16, which is 4121.
(Deposition Exhibit 16 marked.)
Q Doctor, do you recognize this document?
A I do.
Q And what is this document?
A This is a policy statement prohibiting gender-affirming surgery on minors.
Q Were you involved in the creation of this document?

Page 39

A I reviewed and helped edit.
Q So up in the top, it says, "Original creation date: 3-14-23. Publication date: 4-17-23."
Do you see that?
A I do.
Q Does that mean that before March 14th of this year, there was no such policy?
A So there was not a policy, but it was the accepted standard of practice not to do gender-affirming surgery on minors for the purpose of gender dysphoria.
Q Why was it necessary to create a policy in March of this year?
A I think that – so as a former president of the medical staff, what I would say is that if there's not gray areas, if there's not – if it's going to be a new law, we do policy to just remind everybody, but it doesn't mean that the standard of practice wasn't in place. It just – it just means that if there's going to be a new law, which it appeared that there was going to be, we wanted to make sure that we were as clear as possible.
Q And that law, that new law that you're referring to, was enacted as SEA 480?
A Yes.

Page 40

Q I'm sorry, I want to make sure.
A Yes.
Q Yes, okay. But there's no similar policy statement about puberty blockers or hormone therapy for gender dysphoria in minors; correct?
A There is not, but in this particular case, our standard of practice was always not performing surgery on minors for this, and so it aligns our standard of practice and the law. The standard of practice on hormone blockers, et cetera, was not based on age, either in our standard of practice, the WPATH guidelines. So we have not put that into policy.
Q So I want to direct your attention down to – under policy statements, towards the bottom of that page – gosh, I hope you can see that.
MR. FISHER: Can we make it just a little bit bigger maybe? Scroll down just a bit. Maybe it's just my screen is messed up.
Q So you can see that whole thing, Doctor?
A I can see A, B, and C.
Q Okay, terrific. So this is – again, these are the actual policy statements, kind of the operative piece of this document; is that right?
A Yes.

Page 41

Q So under C, it says – in bold, it says, "under no circumstances will IU Health or any provider exercising clinical privileges at an IU Health facility perform any type of gender-affirming surgery on a minor at an IU Health facility."

So I want to go back and make sure I understand what provider refers to.

A So a provider is a provider, a licensed provider, of medical care. So that would include physicians, so M.D s, DOs, and advanced practice providers are included in that word "provider," which would be nurse practitioners and physicians assistants.

Q So this first sentence, you can't do – you can't do gender-affirming surgery on a minor at an IU Health facility. Okay, fair enough. The next sentence, "under no circumstances will a provider employed by IU Health perform any type of gender-affirming surgery on a minor at a non-IU Health facility, with which IU Health has a contractual relationship, when performed on behalf of IU Health."

And I'm trying to understand, number one – well, let's just start, what is it getting at? L ke, what type of circumstance is envisioned by this particular proh bition?

Page 42

A So I will try to explain this as clearly as I can. So the medical staff of the academic health center, which is University, Methodist, and Riley, privileges and credentials are physicians to perform their medical duties at Riley, University, and Methodist.

With our relationship with the School of Medicine, right, some of our faculty also practice at the VA or they practice at Eskenazi. We have a contractual relationship as a School of Medicine entity to provide the physicians in that area. And then there are other circumstances of certain hospitals where we may have an agreement to provide some services. So an example of that is that the NICU at Community Hospital is staffed by Riley neonatalogists.

So even though most of our practice is here, they may practice at other places that have their own sets of bylaws and policies. And what this says is, if you are employed by us, even if you're working at a hospital where maybe this isn't part of their bylaws or their policies, you are bound to this policy as an IU Health physician, no matter what setting you are in.

Q Are there circumstances where physicians at IU Health would be practicing at another medical provider such as Community, but not acting as an employee of IU Health?

Page 43

A So because it's a contractual agreement, and this is their primary employment, I'm no lawyer, but my understanding is they are bound by their primary employer and their rules. And that is how we go out into those spaces.

Q I see. So they're not allowed to sort of freelance outside of their IU employment?

A No.

Q I'm sorry, I want to make sure –

A No, they are not.

Q They're not, okay. Why is it important to have this policy extend to those circumstances where the facility is not an IU facility?

A Well, I think, number one, it's to support our providers in maintaining the standard of practice regardless of pressures that could come from families or other entities.

Q Any other reason?

A Not that I'm aware of.

Q But why does it matter to IU – if it's at a different facility, why does it matter if they're adhering to this policy versus the other facility's policy?

Page 44

A I think it goes back to this idea of, we have heard the national committees, we've read the national recommendations, we've made a decision that in the best care of patients, we are going to hold this to a line of 18 years of age, and that's pretty agnostic from setting.

Q I'm sorry, you trailed off. Pretty agnostic of what?

A Of the setting.

Q Okay. Let's go back to the attachment. So this is Exh bit 2, please.

(Discussion held off the record.)

MR. FISHER: If we could go to paragraph 6. Maybe make that just a little bit bigger for the doctor.

Q Doctor, do you see paragraph 6?

A I do.

Q Which is asking for testimony about requirements for counseling or other mental health treatments before administration of puberty blockers, cross-sex hormones, or surgical interventions.

A Yes.

Q And we talked about the information that's disclosed a little bit, but I'm wondering about

Page 45

if – we can, obviously, set aside surgical interventions. But for puberty blockers and hormones, are there requirements for counseling or mental health treatments for gender dysphoria patients before administration of those medical interventions?

A Yes. So I believe it's in the Tory Castor e-mail as well, but there are requirements for diagnosis that lay out how long – what the child's intentions are, what signs of, you know, the gender dysphoria are.

And the psychologists and the counselors help us make sure that the child meets the criteria set out by the DSM-5, which is the diagnostic and statistical manual that is well used in all medicine for diagnostic criteria to have a patient meet those requirements for that diagnosis.

And that is where the mental health and psychology helps us begin that journey to say if they do meet criteria, if they don't meet criteria, and if they understand, you know, this decision they are making. So any time someone is embarking on a medical journey of any kind, or receives a diagnosis of any kind, that psychological support is always important to help them understand all the

Page 46

medicine and what's happening and making sure that they meet that criteria.

Q Is there an intention of, I guess, screening patients who present with gender dysphoria but who also present with psychological co-morbidities from jumping into either blockers or hormones before resolution of those co-morbidities?

A So I think that certainly, under the umbrella of the psychological services, making sure that we have the proper diagnosis is always important. And if there are other diagnoses of any kind, that they are identified and if intervention is needed for those.

I would give you the example of if you have bad oral hygiene and you're going to go for heart surgery, right, you have the diagnosis of a heart defect, we're going to clean your teeth before we send you to heart surgery. It's just kind of the way it works, because that's an added risk factor, et cetera. So we do that with any diagnosis.

So if there are other things identified in the mental health counseling, they will be dealt with as well.

Q Well, and I'm wondering what you mean, dealt with before there's any puberty blockers or hormones

Page 47

that are prescr bed, or sort of alongside, or how does that work?

A I think it can be either or both, depending on what diagnosis there is and what treatment needs to be undertaken. So, you know, it is not unusual for people who are undergoing gender dysphoria to have depression, anxiety, and other things, whether that precludes moving forward with their diagnosis or not, or treatment for their gender dysphoria, or whether it goes hand in hand with that, it would be up to the psychologist or the mental health worker.

Q Are you aware of any risks or symptoms that would – either as a matter of the standard of care or as a matter of IU policy, you know, be a barrier to proceeding with puberty blockers or hormones until resolved?

A I think, you know, one is if they don't meet the diagnostic criteria. If you don't meet the diagnostic criteria, it may take more time to do that. I think some of it is also, you know, people have free will, so if the patient doesn't want a certain kind of therapy, it doesn't go forward. You know, we have to do a lot of work with families and children to make sure that everyone understands the therapy and is supportive of the therapy. So

Page 48

any of those things can happen to delay the therapy.

Q What about suicidality, if you have a child that meets the diagnostic criteria for gender dysphoria but also has – you know, presents with suicidality, is that going to be something that is a barrier to either blockers or hormones?

A So I think suicidality is a tricky question because very frequently the patients are suicidal because they're not progressing on their journey to transgender. The suicide rate in gender dysphoria is very high, and so I think you have to work with the psychologist to understand the reason for the suicidality to know what the appropriate course forward is, and that's in a case-by-case basis.

Q With respect to the – I guess the practice standards, the guidelines that Riley psychiatric services consult and use when dealing with psychological co-morbidities, you mentioned the DSM-5. Anything else that, I guess, provides sort of the framework for those assessments?

A Certainly there are multiple places that have guidelines. I mentioned the Endocrine Society earlier. The Society for Adolescent Medicine, the AMA, the AAP. People reiterate what best practice

Page 49

are, and so when our team determines their standards of practice, they use those guidelines and make sure that they have everything covered. Sometimes the guidelines are slightly different in their recommendations based on, you know, wording, et cetera. But the overall principles are all the same because they're based on the same set of science.

Q Are you aware of any such, I guess, standards within Riley that depart from the Endocrine Society, the AMA, or any of the other organizations when it comes to assessment or treatment?

A No, I am not.

Q So let's scroll down to paragraph 10, please. And I'm going to apologize. Yeah, this is spanning a couple of pages, but this is a request for testimony about data on minor patients -- I think we're talking about aggregate data here -- minor patients seeking or receiving treatment for gender dysphoria or gender incongruence, and then there's a whole list of categories here.

And I'm wondering if Riley or IU keeps data, this data, and has this data available.

A So we do keep data. I can't comment on A through whatever it is, if we keep all of that data or not.

Page 50

You know, with many things in medicine, because medicine is a constantly evolving science, we keep all kinds of data in registries for specific diagnoses, but I have no idea which ones of these we're actively collecting at this time.

MR. MINKLER: And Tom -- this is Josh Minkler, for the court reporter -- that's more on me than on Dr. Cox. In providing the data analysis under the document requests, we had to take some steps to put information together for you and redact certain information. So I did not prepare her on the data information.

MR. FISHER: And I think, Josh, I guess I'm, you know, wondering if we can get, you know, some clarity outside of the deposition here on what's available within these categories and whether if there's some way to produce that data. You know, we're not -- again, if it's the sort of thing that they're not keeping and that you'd have to go through patient files and such, we're not asking for that. We just wonder if this data exists, if we can get it.

Sorry, Josh, you're on mute.

MR. MINKLER: Understood. Yeah, we can discuss that. We're trying to seek that in the

Page 51

format you asked for it and see if it exists. We provided some data we were able to collect in our document production. But yeah, I have not discussed this specific issue with Dr. Cox.

MR. FISHER: All right. Well, we'll discuss more offline then.

Okay. I think I may be just about done. Just hang on. If we could just take a couple minutes here, so I can confer with my colleagues.

(Recess taken.)

BY MR. FISHER:

Q I just have a couple of things that I wanted to follow up on. If we could go back to Exh bit 8. And this is Bates No. 3905.

Doctor, do you see -- oh, let's go back down to the bottom there. Doctor, on that left-hand column, it says, "Surgery consultation and coordination."

Do you see that?

A I do.

Q So I take this to mean that even though Riley will not provide top and bottom surgery -- I don't know, maybe I'm not understanding this -- will Riley consult and coordinate for such surgery elsewhere?

A No. So what that statement refers to is that many

Page 52

times families and patients, they want surgery. Not all of them, but many of them do. Or they want to consider surgery. So what that result -- what that line is stating is that if families want to get more detailed information about what surgery would entail and when it can happen and what recovery is like, they want to go to the expert frequently, which is the surgeon.

So we will arrange for them to have conversation with the surgeon for the sole purpose of getting detailed information and questions answered. But still, surgery won't happen until after they're 18.

Q If a patient, a minor patient, wants to have either top or bottom surgery as a treatment, solely for gender dysphoria, and wants to go out of state for that, will Riley coordinate with a provider out of state who's going to provide that when that -- again, when that patient's under the age of 18?

A What I would say is that if a patient transfers their care to someone else and they request their medical records, by law we will give them medical records. And that's the extent of what we have done.

If a patient is moving out of state and needs

Page 53

to be referred to another medical provider or something of that nature, we will help them land safely and have a safe transition, but we would not facilitate the purposes of getting the surgery less than 18. And I think it's because we believe that that is the practice that we should be providing. And so that's where we would stand on those questions.

Q So what preparations is Riley making for the implementation of SEA 480?

A So we have done a couple of different things. We have informed the families what the requirements of the bill will be and what that means for our clinic. And I know that our team has been meeting with a lot of families that have a lot of concerns about what happens to their child. And that includes, as you know, weaning off of the therapies that are medical if the – as the bill becomes law and gets enacted – I guess it is a law, but when it goes live, whatever you guys call that.

They are aware, the families are being informed. They are being informed also that our gender affirmation clinic will remain and will support them with the ongoing psychological services and all the things that will still be

Page 54

allowed by law. So that's what we're doing to prepare.

Q And anything else that you can think of in that regard?

A No. We are supporting our physicians and what the impact that this will have on their practice. But other than that, I am not aware of anything else specifically we are doing.

MR. FISHER: Well, I think that those are the questions I have for you, Doctor. Thanks very much. I will pass the witness to either Mr. Minkler or Mr. Fa k.

MR. MINKLER: Yeah, I don't have any follow-up. So Mr. Fa k.

MR. FALK: Yeah, thank you. I just have a few.

EXAMINATION

BY MR. FALK:

Q Doctor, my name is Ken Fa k. I, along with my colleagues, are representing the plaintiffs in this case. As I said, I just had a few questions.

Just to piggyback on your last comment about your staff meeting with a lot of concerned families, how have the families reacted to this – the July 1st impending effective date of the

Page 55

statute?

A Well, in general – obviously not everyone reacts the same, but in general, they've been quite upset because they have been through a lot to get to this point on their journey, and now their journey is being disrupted and they're – in general, they're agitated, I would say, about it.

Q Now, in Exh bit 14, and we don't need to see it again, I can just say that's the e-mail from Tory Castor. And she indicates that Riley has seen 903 unique patients from 2018 to 2022. I apologize, the Riley gender clinic has seen 903 unique patients from 2018 through 2022.

Do you remember her saying that?

A I do.

Q And I assume that a significant percentage of those patients have received or are receiving either puberty blockers or gender-affirming hormones; is that correct?

A A good percentage, yes.

Q I am wondering if – str ke that. Excuse me.

The statute that we are here on today covers, for some things, for all things, physicians and practitioners. And I will tell you practitioners are defined as individuals who provide health

Page 56

services and hold a license. And I'm wondering if you can give me an estimate of the number of physicians and practitioners – I don't need names, but by job category – roughly, working at Riley gender care program right now; how many physicians are working in the program?

A So I can't really answer that because the adolescent medicine division has a number of doctors in it. I don't know that they all provide care in the gender-affirming clinic. Some of them have different subspecialties within adolescent medicine. And that's true of endocrine. But, you know, it's between the doctors and the nurse practitioners and the psychologists, you're well over 20, 25 people easily.

Q Thank you.

One of the topics in Exh bit 2, which was that attachment of things to discuss during your deposition, concerned information provided to minor patients or to their parents or guardians concerning any coverage by Medicaid or medical insurance. And I just wanted to ask you a question, and you may not know. Are patients who are receiving services from the Riley gender health program, are some of them receiving services

Page 57

reimbursed by Medicaid?
A Yes.
Q And does that include the administration of puberty blockers and/or gender-affirming hormones?
A It can, yes.
Q And, of course, the visits themselves where those are administered; is that correct?
A Yes.
Q And just one more thing. One of the documents that was provided to the court reporter that was not made an exhibit –
MR. FALK: Joannie, if you could bring up the Word version of the GAC Fact Sheet.
Q And I will tell you, while that's being brought up, I believe this is the exact same text as Bates 3901 through 3904, which is Exhibit 7, but I asked for this because the hyperlinks in this are active.
So if you don't mind just looking at that real quickly, or as long as you want – although I suspect at this point you'd l ke this to be over – and just confirm for me that this appears to be the same as Exhibit 7 which were, as I said, Bates 3901 through 3904.
MR. FALK: And Joannie, we would make this Exh bit 17, is that where we are?

Page 58

A It does look the same.
Q Thank you.
MR. FALK: And am I right with my notes, is this Exh bit 17?
THE REPORTER: Yes.
(Deposition Exh bit 17 marked.)
MR. FALK: Let me just consult real quickly with my co-counsel.
Thank you for your time, Doctor, and thank you for what you do. No further questions.
THE WITNESS: Thank you.
MR. FISHER: I have no follow-ups. Thank you, Doctor. Really appreciate it.
THE WITNESS: Thank you.
THE REPORTER: Do we want signature?
MR. MINKLER: Can I review this document with Dr. Cox before that? The transcript. I just need a copy.
THE REPORTER: Do you want a copy also or do you just want the original for signature?
MR. MINKLER: I just want a copy. I just want to review it before signature.
THE REPORTER: I have a rough draft for AG's office. I don't have a date on final. So when do you need final?

Page 59

MR. FISHER: So I think probably, gosh, what is today? Can we get it by close of business tomorrow?
THE REPORTER: Yes, I can do that.
MR. FALK: We just need it expedited, but not that expedited.
THE REPORTER: So when do you want yours?
MR. FALK: By Monday would be great.
(The deposition concluded at 10:28 a m.)

Page 60

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

K.C., ET AL.,)
)
Plaintiffs,)
)
-v-) CASE NO.
) 1:23-cv-00595-JPH-KMB
THE INDIVIDUAL MEMBERS OF)
THE MEDICAL LICENSING BOARD)
OF INDIANA, in their official)
capacities, et al.)
)
Defendants.)

Job No. 181981

I, ELAINE COX, M.D., state that I have read the foregoing transcript of the testimony given by me at my deposition on May 31, 2023, and that said transcript constitutes a true and correct record of the testimony given by me at said deposition except as I have so indicated on the errata sheets provided herein.

_____
ELAINE COX, M.D.

STEWART RICHARDSON & ASSOCIATES
Registered Professional Reporters
One Indiana Square, Suite 2425
Indianapolis, IN 46204
(800)869-0873

STATE OF INDIANA
COUNTY OF HENDRICKS

I, Debbi S. Austin, a Notary Public in and for said county and state, do hereby certify that the deponent herein was by me first duly sworn to tell the tru h, the whole truth, and nothing but the truth in the aforementioned matter;

That the foregoing deposition was taken on behalf of the Defendants; that said deposition was taken at the time and place heretofore mentioned between 9:01 a.m. and 10:28 a.m.;

That said deposition was taken down in stenograph notes and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the testimony given by said deponent;

And thereafter presented to said witness for signature; that this certificate does not purport to acknowledge or verify the signature hereto of the deponent.

I do further certify that I am a disinterested person in his cause of action; that I am not a relative of the attorneys for any of the parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 1st day of June, 2023.

My Commission Expires:
July 13, 2023

Job No. 181981